

## **IC 21-16-5**

### **Chapter 5. Secondary Market for Guaranteed Student Loans**

#### **IC 21-16-5-1**

##### **Secondary market for guaranteed student loans; establishment of corporation**

Sec. 1. The governor may request, on behalf of the state, the establishment of a private nonprofit corporation, with a bipartisan board of directors, to serve as a secondary market for education loans. If a private nonprofit corporation is established, the governor may designate the corporation to:

- (1) serve as the secondary market for education loans; and
- (2) act as an eligible lender under a federal program.

The corporation must satisfy the conditions imposed by sections 3 through 10 of this chapter, and its articles of incorporation must provide that upon the corporation's liquidation, any surplus funds must be paid to the state.

*As added by P.L.2-2007, SEC.257.*

#### **IC 21-16-5-2**

##### **Public hearing; notice**

Sec. 2. Before designation by the governor under section 1 of this chapter, the corporation shall conduct a public hearing to give all interested parties an opportunity to review and comment upon the bylaws and method of operation of the corporation. Notice of this hearing must be given at least fourteen (14) days before the hearing in the manner set out in IC 5-14-1.5-5(b).

*As added by P.L.2-2007, SEC.257.*

#### **IC 21-16-5-3**

##### **Powers of corporation; articles of incorporation**

Sec. 3. (a) The corporation must, under its articles of incorporation, limit its powers to those described in subsection (b).

(b) The corporation may:

- (1) borrow money;
- (2) purchase, sell, and retire education loans, if the loans are not in default status;
- (3) provide incentive services and payments, including the payment of premiums for the purchase of education loans and the payment of an origination fee, to assist lending institutions that provide education loans;
- (4) loan funds to lending institutions if:
  - (A) the lending institution agrees to use the funds to originate education loans of an amount equal to the loan made by the corporation over a period agreeable to the corporation and to grant the corporation the right of first refusal to purchase those education loans;
  - (B) the lending institution agrees to use education loans or government securities as collateral for the loan; and
  - (C) the corporation has, in response to its written request,

received written authorization from the governor to exercise the power described in this subdivision;

(5) establish after consultation with the associations representing the private lenders of Indiana and, at the direction of the governor, a direct lending program under which the corporation may make education loans:

(A) to eligible borrowers under a federal program; and

(B) if the corporation determines that the borrowers cannot reasonably obtain an education loan from a lending institution in Indiana;

(6) make direct loans to or for the benefit of an education loan borrower to consolidate all or a part of the borrower's outstanding education loans into one (1) loan;

(7) operate a secondary market for postsecondary education finance instruments, including tuition certificates and education savings certificates sold by or offered through lending institutions or postsecondary educational institutions; and

(8) do all other things that are necessary or incidental to performing the functions listed in subdivisions (1) through (7).

*As added by P.L.2-2007, SEC.257.*

#### **IC 21-16-5-4**

##### **Annual report; annual public hearing**

Sec. 4. The corporation shall submit an annual report to the governor, which must include detailed information on the structure, operation, and financial status of the corporation. The corporation shall conduct an annual public hearing to receive comment from interested parties regarding the report. Notice of the hearing must be given at least fourteen (14) days before the hearing in accordance with IC 5-14-1.5-5(b).

*As added by P.L.2-2007, SEC.257.*

#### **IC 21-16-5-5**

##### **Changes in directors and bylaws**

Sec. 5. The corporation shall provide in its articles of incorporation that changes in the composition of its directors or in its bylaws are subject to the approval of the governor.

*As added by P.L.2-2007, SEC.257.*

#### **IC 21-16-5-6**

##### **Annual audit**

Sec. 6. The corporation is subject to an annual audit by the state board of accounts. The corporation shall bear the full costs of this audit.

*As added by P.L.2-2007, SEC.257.*

#### **IC 21-16-5-7**

##### **Board of directors; executive session**

Sec. 7. The board of directors of the corporation may meet in executive session to discuss negotiating strategies with respect to

financing arrangements or proposals, in addition to those items listed in IC 5-14-1.5-6.1.

*As added by P.L.2-2007, SEC.257.*

#### **IC 21-16-5-8**

##### **Board of directors; meetings**

Sec. 8. Any or all members of the board of directors may participate in a meeting of the board by means of a conference telephone or similar communications equipment by which a member can communicate with each of the other board members if at least three (3) board members are present at the meeting. Participation by these means does not violate IC 5-14-1.5.

*As added by P.L.2-2007, SEC.257.*

#### **IC 21-16-5-9**

##### **Benefits of guaranty**

Sec. 9. The corporation and its transferees and pledgees, so long as they are eligible lenders under a federal program, are entitled to the benefits of any guaranty given by the commission under IC 21-16-4 or any successor to the commission with respect to education loans owned or held by the corporation, its transferees, or its pledgees, as long as the corporation, its transferees, or its pledgees are eligible lenders or holders of education loans under the rules adopted under IC 4-22-2 by the commission or a successor to the commission.

*As added by P.L.2-2007, SEC.257.*

#### **IC 21-16-5-10**

##### **Grants; approval by the budget agency**

Sec. 10. Notwithstanding any other law, the commission may not make grants for any purpose without approval by the budget agency and the governor after review by the budget committee.

*As added by P.L.2-2007, SEC.257.*

#### **IC 21-16-5-11**

##### **Debts incurred**

Sec. 11. Debts incurred by the corporation under authority of this chapter do not represent or constitute a debt of the state of Indiana within the meaning of the provisions of the statutes of Indiana or the Constitution of the State of Indiana.

*As added by P.L.2-2007, SEC.257.*

#### **IC 21-16-5-12**

##### **Principal and interest on bonds**

Sec. 12. The principal of and the interest on bonds and notes issued by the corporation under this chapter are exempt from taxation of every kind by the state and by the municipalities and other political subdivisions of the state, except taxes imposed under IC 6-4.1.

*As added by P.L.2-2007, SEC.257.*

### **IC 21-16-5-13**

#### **Investment of funds**

Sec. 13. All:

- (1) banks;
- (2) bankers;
- (3) trust companies;
- (4) savings banks and institutions;
- (5) building and loan associations;
- (6) saving and loan associations;
- (7) investment companies;
- (8) insurance companies and associations; and
- (9) executors, administrators, guardians, trustees, and other fiduciaries;

may legally invest any sinking funds, money, or other funds that belong to them or are within their control in any bonds or notes issued under this chapter.

*As added by P.L.2-2007, SEC.257.*

### **IC 21-16-5-14**

#### **Termination of the designation**

Sec. 14. The designation by the governor under section 1 of this chapter remains in effect until the general assembly provides by law for termination of the designation.

*As added by P.L.2-2007, SEC.257.*

### **IC 21-16-5-15**

#### **Immunity for officers and directors**

Sec. 15. Except for an act of fraud or intentional misconduct, an officer or director of the corporation is not individually liable for an act or omission regarding the exercise or performance of that person's duty to the corporation.

*As added by P.L.2-2007, SEC.257.*

### **IC 21-16-5-16**

#### **Security interest in education loans**

Sec. 16. Notwithstanding IC 26-1-9.1-310(a), a security interest in education loans is perfected by:

- (1) possession under IC 26-1-9.1-313; or
- (2) filing a financing statement in the office of the secretary of state under IC 26-1-9.1-501.

*As added by P.L.2-2007, SEC.257.*

### **IC 21-16-5-17**

#### **Secondary market sale fund; administration**

Sec. 17. (a) The secondary market sale fund is established to provide money for school assessment testing and remediation, including reading recovery programs. The fund shall be administered by the budget agency.

(b) The expenses of administering the fund shall be paid from money in the fund. The fund consists of proceeds from the sale of

assets of the Indiana Secondary Market for Education Loans, Incorporated.

(c) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested. Interest earned from these investments shall be credited to the fund.

(d) Money in the fund at the end of a state fiscal year does not revert to the state general fund but remains available to be used for providing money for school assessment testing and remediation, including reading recovery programs as allowed under this chapter. *As added by P.L.2-2007, SEC.257. Amended by P.L.234-2007, SEC.51.*